

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PAVLE ZIVKOVIC : Case No.:
 : 17-cv-00553-GHW
 :
 Plaintiff, :
 :
 -against- : **DECLARATION OF**
 : **FRED L. SEEMAN IN**
 : **RESPONSE TO PLAINTIFF'S**
 LAURA CHRISTY LLC d/b/a VALBELLA, : **ORDER TO SHOW CAUSE**
 LAURA CHRISTY MIDTOWN LLC, DAVID :
 GHATANFARD and GENCO LUCA :
 :
 Defendants. :
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I, **Fred L. Seeman**, pursuant to 28 U.S.C. §1746, hereby declare as follows:

1. I am the attorney for the non-party, Rosey Kalayjian, the majority owner of Oak Grove Road LLC. As such, I am fully familiar with the facts and circumstances set forth herein.
2. I submit this declaration in response to Plaintiff's Order to Show Cause seeking to compel non-party, Weiner LLC, to respond to the Subpoena *Duces Tecum* served by Plaintiff.
3. In sum, Plaintiff's application should be denied inasmuch as we have been advised that Weiner LLC has now complied with the subject subpoena.

PLAINTIFF'S APPLICATION IS MOOT

4. Plaintiff is seeking to compel non-party, Weiner LLC, to respond to a Subpoena *Duces Tecum* dated May 16, 2023 (hereinafter the "Weiner Subpoena"). *See, Docket Entry ("DE") 395-4.*
5. The Weiner Subpoena primarily seeks the financial records of non-party Oak Grove Road LLC, of which Rosey Kalayjian is a ninety (90%) percent owner. *See, DE 395-2.*
6. Caselaw is clear that the Plaintiff, as the proponent of the Weiner Subpoena, "bears the initial burden of proving that the information and testimony sought in the subpoena are relevant and proportional to the needs of the case". *Lecchbook v. Lebanese Canadian Bank SAL*, 2023 US Dist. LEXIS 70134, 6-7 (S.D.N.Y. 2023).

7. Here, Plaintiff has not demonstrated the relevance of the documents sought in the Weiner Subpoena.
8. Notwithstanding the foregoing, we have been advised by a representative of Weiner LLC that, on or about June 16, 2023, Weiner LLC complied with the Weiner Subpoena by producing several documents from its business records.
9. Accordingly, Plaintiff's Order to Show Cause should be denied as moot.

I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: New York, New York
June 20, 2023

/s/ Fred L. Seeman
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